JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

REPORT TO THE 2007 GENERAL ASSEMBLY

Co-Chairs:
Senator Martin Nesbitt
Representative Verla Insko

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Raleigh, North Carolina 27603

Senator Martin Nesbitt, Co-Chair *Representative Verla Insko, Co-Chair*

MARCH 7, 2007

TO THE MEMBERS OF THE 2007 GENERAL ASSEMBLY (2007 Regular Session):

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services submits to you for your consideration its report pursuant to G.S. 120-231.

Respectfully Submitted,

Verla C. Insko

Rep. Verla Insko, Co-Chair

Martin Nesbitt

Sen. Martin Nesbitt, Co-Chair

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PREFACE

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) is established in Article 27 of Chapter 120 of the General Statutes. The LOC is charged with examining, on a continual basis, the system-wide issues affecting the development, financing, administration, and delivery of mental health, developmental disabilities, and substance abuse services, including issues related to governance, accountability and quality of services.

The LOC consists of sixteen members, eight appointed by the President Pro Tempore of the Senate and eight appointed by the Speaker of the House of Representatives. The members appointed by the President Pro Tempore must include all of the following: at least two must be members of the Senate Committee on Appropriations, the chair of the Senate Appropriations Committee on Human Resources, and at least two must be of the minority party. The members appointed by the Speaker of the House of Representatives must include all of the following: at least two members of the House Committee on Appropriations, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services, and at least two members of the minority party.

The co-chairs for the 2005-2006 Session are Senator Martin Nesbitt and Representative Verla Insko.

COMMITTEE PROCEEDINGS

LEGISLATIVE OVERSIGHT COMMITTEE

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) met on six occasions during the 2006-2007 interim. The LOC also met four times in two days during the 2007 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

September 6, 2006

The LOC convened its first meeting on Wednesday, September 6, 2006, at 9:30 A.M. in Room 643 of the Legislative Office Building. At this meeting, the LOC heard several updates concerning legislative actions of interest and the proposed LOC work schedule for the coming interim.

The meeting began with a review of legislative actions from the 2006 Session. Andrea Russo, Fiscal Research, provided a description of budget actions and noted $95.8 million dollars was appropriated for the 2006-2007 fiscal year for mental health, developmental disabilities, and substance abuse services. Shawn Parker, Research Division, reviewed procedural and policy changes enacted in H.B. 2077, *Mental Health Reform Changes (S.L. 2006-142)*, H.B. 2120, *Strengthen LOC Oversight Role (S.L. 2006-32)*, and S.B. 1741 (S.L. 2006-66), *Modify Appropriations Act of 2005*.

Leza Wainwright, Deputy Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH), discussed how funds appropriated for the 2006-2007 fiscal year would be allocated to community programs. In response to concerns over the disproportionate funding between area programs, Ms. Wainwright indicated results of the Funding Equity Study would be ready in a future meeting. Ms. Wainwright continued her presentation by explaining the role of the two consultants authorized by legislation. The first would assist DHHS and the LMEs with crisis planning and the second would help with State-level strategic planning and technical assistance to the LMEs. She also noted that the report on how Mental Health Trust Fund dollars would be spent would be ready to present at the October 6th meeting.

Ms. Wainwright outlined how DHHS planned to accomplish tasks assigned by the Legislature during the last session. She noted that the total number of

Steve Hairston, Section Chief for Operations Support, DMH, introduced consultant Dr. Christina Thompson, Heart of the Matter Consulting, Inc., who presented the preliminary report on the Long Range Study for MHDDSAS and Service Gaps.

Dr. Thompson explained how the statistical models were created and reviewed some of the components used in the model. Dr. Thompson also provided a preliminary estimate that it would cost $500,000,000 to bring North Carolina up to the national average over a five year period of time.

Committee staff Kory Goldsmith and Andrea Russo reviewed follow-up questions from the September meeting.

Dr. Bonnie Morell, Team Leader for the Best Practice Team, DMH, presented an in-depth description of services for the mentally ill.

Secretary Carmen Hooker Odom, DHHS, addressed the LOC to provide information relating to a shortfall in LME administration funds for fiscal year 2006-07. The Secretary indicated that the new cost model would produce an adequate and appropriate calculation of the amount needed to fund the LME administrative functions.

Leza Wainwright, Deputy Director, DMH, identified eight areas of service funding that would be cut to make up the shortfall in LME administrative funding. Ms. Wainwright also provided the LOC with the proposed spending allocations from the Mental Health Trust Fund.

November 13, 2006

The LOC convened its third meeting on Monday, November 13, 2006, at 9:30 A.M. in Room 643 of the Legislative Office Building.

Leza Wainwright, Deputy Director, DMH, provided the LOC with information regarding the revised cost model for payment of LME administrative functions.

Ms. Wainwright also provided a preliminary report on the Funding Allocation Study. Ms. Wainwright described sources of funding and went on to state that the consultants would present the Finance cost model to the LOC at the December meeting. She said that DMH and the consultants would work with the North Carolina Association of County Commissioners and the North Carolina Council of Community Programs on recommendations related to the finance model and that, following approval of the model, implementation would begin on July 1, 2007.

January 10, 2007

The LOC met on Wednesday, January 10, 2007, at 9:30 A.M. in Room 643 of the Legislative Office Building.

Dr. Allen Dobson, Assistant Secretary for Health Policy and Medical Assistance, DHHS, gave an update on the technical amendment to the CAP-MR/DD waiver and discussed a data exchange pilot program which has enabled three participating LMEs to access the Medicaid database to track what is happening with consumers.

Jeff Weaver, General Assembly Chief of Police, addressed the building evacuation policy.

Representative Insko took a moment to recognize the passing of Representative Howard Hunter and Senator Robert Holloman.

Eddie Caldwell, Executive Vice President and General Counsel to the N.C. Sheriffs' Association, offered information regarding mental health services available for pre-trial detainees in county jails.

Kory Goldsmith, Research Division, reviewed the study provisions related to the consultant's reports.

Dr. Christine Thompson, Heart of the Matter Consulting, Inc., gave her presentation on the final report for the Long Range Plan and Gaps Analysis.

It was suggested that the Funding Allocation Report be presented at the next meeting to allow staff ample time to review the report and to allow further questioning of the Gaps Study Report by the committee.

Dr. Thompson reviewed estimates of funding resources based on recommendations made in the report and stated that the collective impact of the proposed increases would cost $2.7 billion over a 5 year period.

Andrea Russo-Poole, Fiscal Research, offered follow-up information from previous meetings.

The LOC then received comments from the audience.

January 16, 2007

The LOC met on Wednesday, January 16, 2007, at 1:30 P.M. in Room 643 of the Legislative Office Building.

COMMITTEE FINDINGS

Introduction

In 2001, the General Assembly adopted significant reform legislation to restructure the delivery of services to individuals with mental illnesses, developmental disabilities, and substance abuse disorders. The foundations of reform included: local management of the system, decreased reliance on State institutions, community-based best practice treatments, increased consumer involvement, access to multiple and qualified providers, and performance and fiscal accountability to the State and local governments. As part of the legislation, the General Assembly directed the Secretary of DHHS (Secretary) and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) to undertake administering system reform. The reform has been overseen by the General Assembly and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC).

During the 2005-2006 interim, the LOC examined the status of services, the strength of State leadership, and the role of local agencies (LMEs). It found that mental health and substance abuse services are substantially under-funded when compared to other states. It also found that reform was moving away from strong local management. In response to these findings, the LOC recommended and the 2006 Session of the General Assembly approved significant increases in funding and modifications to the reform laws. The following is a summary of those changes:

1. The General Assembly appropriated $95.8 million in additional funding for mental health, developmental disabilities, and substance abuse services and authorized $328.3 million in certificates of participation for the construction of new psychiatric hospitals in Goldsboro and Morganton and to complete construction of the new facility in Butner. Major areas funded included:

- **Developmental Therapies** - $26 million recurring to replace services to the developmentally disabled lost due to changes in federal policy and cuts in federal support.
- **Community-Based Services** - $21.4 million recurring for mental health, substance abuse, and crisis services.
- **Housing** - $10.9 million in non-recurring funds for the North Carolina Housing Trust Fund and $1.2 million in recurring funds for operating assistance for 400 new apartments.

referred to as the "fee for service" model. The fee for service payment system does not lend itself to the fire house model of service delivery.

2. Additional Housing Assistance

Lack of affordable housing options continues to be sited as one of the major barriers to successfully treating individuals in the community. However, in 2006, the LOC recommended, and the General Assembly funded, the Housing 400 Initiative. This initiative appropriated $1.2 million (recurring) for operating assistance of 400 independent- and supportive-living apartments and also appropriated $10.94 million (non-recurring) for financing the apartments. The North Carolina Housing Finance Agency and the Department of Health and Human Services are jointly operating this initiative.

3. Support Proposals Regarding Mentally Ill in Adult Care Homes

Currently there is no level of care between the hospital inpatient setting and the adult care home setting, and there is a lack of options for independent living.

In 2005, the public mental health system served over 174,000 adults with mental illness, 1,149 of whom lived in licensed mental health homes and 5,000 of whom lived in adult care homes. Nationally, approximately 10% of adults with serious mental illness need specialized housing. It was reported that over 40% of the adult care home population carries an active diagnosis of mental illness.

The co-chairs of the Study Commission on Aging and the LOC determined it would be beneficial to appoint a joint, ad hoc subcommittee to study issues relating to serving mentally ill individuals who reside in long term care facilities. That subcommittee made several recommendations.

4. Crisis and Acute Care Services

The LOC has heard repeatedly from sheriffs and other first responders that there is a lack of adequate crisis service providers, and that persons with mental illness and substance abuse disorders are disproportionately ending up in emergency rooms, county jails, and the State prison system.

In 2006, the General Assembly made an investment in crisis services by appropriating $7 million (recurring). These funds are currently available to LMEs. However, they were allocated by DMH according to age and disability groupings and could be spent only for identified services on a fee-for-service

DMH currently funds 12 Jail Diversion programs that serve 17 counties at an average cost of $60,000 annually. DMH is working with LMEs and other community partners (police and sheriff's departments, CFACs, and NAMI chapters) to expand the use of CITs (Crisis Intervention Teams). DMH administers the TASC Program (Treatment Accountability for Safer Communities) for individuals charged or convicted of crimes eligible for intermediate or community punishment. In FY 2005-06, 498 intermediate punishment offenders exited prison and the probation population consisted of 29,051 offenders. DMH estimates that of those individuals, 6,791 are currently being served. The services needed for this population include: detoxification services, crisis services, intensive outpatient treatment, comprehensive outpatient treatment, residential services, community support, and halfway houses.

7. Restructure the MH/DD/SA Trust Fund

G.S. 143-15.3D[1] creates the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Trust Fund). It is an interest-bearing, nonreverting special trust fund in the Office of State Budget and Management. Moneys in the Trust Fund are held in trust to be used solely to meet the mental health, developmental disabilities, and substance abuse services needs of the State. Any balance remaining in the Trust Fund at the end of any fiscal year is carried forward in the Trust Fund for the next succeeding fiscal year.

The Trust Fund only can be used for specified purposes. These are:

- Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's institutions.
- Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.
- Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.
- Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.
- Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.

[1] Effective July 1, 2007, G.S. 143-15.3D is recodified as G.S. 143C-9-2.

Because access to state-funded services is not an entitlement, LMEs lack sufficient funds to provide adequate services to consumers. LMEs must choose between serving more people with fewer services or serving fewer people with more services. If LMEs paid for the same level of services as Medicaid for state-funded services, it is estimated that only twenty-five percent (25%) of current mental health patients would receive services.

Another indication of the lack of sufficient services to the mentally ill is the rise in acute admissions to the State psychiatric hospitals. Since reform, hospital populations have decreased, but admissions have increased and admissions are increasing faster than population growth. Acute admissions (persons who are discharged in 30 days or less) have increased 22% from 2001 to 2005. Stays from one to seven days have increased by 83% from 2001 to 2005.

10. Services to the Developmental Disabled

The LOC has heard that Sheltered Workshops, which the State currently funds, are not an evidence-based practice, but that Supported Employment is. The LOC has also made it a priority to serve individuals with developmental disabilities in the community rather than institutions.

In 2006, CMS refused to approve Developmental Therapies (previously known as Community Based Services or CBS) as a Medicaid reimbursable service for the developmentally disabled. The State moved to place as many persons as possible on CAP-MR/DD waivers and find other appropriate services. DMH also recommended, and the General Assembly appropriated, $26 million to be used to "replace services lost due to changes in federal policy and cuts in federal support." It is not clear whether these funds were meant to "hold harmless" individuals who had been receiving CBS or whether the funds were meant to create a new service that is available regardless of whether a person had previously been receiving CBS.

11. Implementation of New LME Administrative Cost Model and Additional Funding Needed

S.L. 2006-66, Section 10.32 directed DHHS to review and revise the LME systems management cost model and to recalculate LME systems management allocations for fiscal year 2006-07. This calculation was to include funds for each LME to implement 24-hour, seven-days-a-week screening, triage, and referral, and to review, monitor, and comment on all person centered plans. The special provision also required DHHS to develop a cost model that fully funded the core LME functions outlined in G.S. 122C-115.4(b).

$7,200 to $99,000 for a family of one. A couple of LMEs charged for "no shows", but the vast majority did not. Only one LME had a maximum monthly liability limit.

A uniform fee schedule would ensure that consumers are treated consistently across the State.

13. Clarify Screening, Triage, and Referral Roles

The purpose of the LME function of Screening, Triage and Referral (STR) is to gather basic demographic information about the consumer, determine whether the consumer is target or non-target population, make a very broad initial determination about the consumer's condition, and provide information regarding providers who could assist the consumer.

In the spring of 2006, DMH and LMEs negotiated a memorandum of agreement (MOA) that outlined how STR should be handled. The MOA stated that only LMEs would implement STR for both Medicaid and non-Medicaid eligible consumers. The rational for this position was that LMEs needed to know who was entering the system and this was the most efficient way for LMEs to have that information. LMEs were also concerned about "self-referral" by the providers conducting STR.

During the summer of 2006, the Division of Medical Assistance (DMA) took the position that private providers should be able to do STR for Medicaid eligible consumers. DMA argued that this implemented the "no wrong door" policy of the system and that when a consumer walks in the door of a private provider, that consumer has already exercised his or her choice. LMEs objected to this position, arguing that there was no mechanism for LMEs to know when a Medicaid eligible consumer enters the system if the provider conducts STR. Eventually, DMH, DMA and the LMEs negotiated a system by which a provider must "register" a consumer with the LME within 5 days of the provider conducting STR. While some LMEs were satisfied with this solution, others took the position that the policy contradicted language adopted by the General Assembly in 2006 that lists STR as a "core function" of LMEs. Those LMEs also argued that the registration system would be inefficient.

It should be noted that the State and Medicaid provide administrative funds for LMEs to conduct STR. However, STR is not a "service", therefore neither the State nor Medicaid will pay providers for conducting STR. It is possible that as more providers conduct STR, Medicaid will reduce its contribution to LME

COMMITTEE CONCLUSIONS

The Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services makes the following four recommendations to the 2007 General Assembly. Each proposal is followed by a bill draft.

1. That the General Assembly enact comprehensive legislation to build the necessary services (infrastructure) at the community level to begin to address the system's needs.
2. That DHHS adopt a uniform sliding fee schedule.

3. That the General Assembly extend the First Commitment Pilot Program and clarify that only LMEs may conduct LME core functions.

4. That the General Assembly adopt legislation requiring all health insurers to provide health insurance coverage for the treatment of mental illness and substance abuse. The coverage shall be subject to the same benefits and limitations as the coverage provided for all other covered conditions.

Note: Recommendations 1-3 above are outlined in greater detail in the following pages. Each proposal is accompanied by draft legislation.

LEGISLATIVE PROPOSAL #1

BUILD COMMUNITY INFRASTRUCTURE

- Amends G.S. 122C-147.1 to include language providing funds for substance abuse services be appropriated in a broad disability category, thereby removing the age categories.
- Directs the Secretary to develop and implement a system to track funds expended by LMEs on a grant basis (single stream funding) for each disability and age/disability category and that identifies specific services purchased with funds.
- Allows LMEs to use up to 1% of funds allocated to provide nominal incentives for substance abuse service consumers that meet specific treatment benchmarks
- Encourages LMEs to use funds for prevention and education.
- **$4,000,000** for FY 2007-08 and **$4,000,000** for FY 2008-09 from the General Fund to DHHS to provide substance abuse treatment services and case management for existing pre- and post-plea drug treatment courts.

Part 2. Additional Housing Assistance

Independent- and Supportive-Living Apartments Initiative:

- **$5,250,000** FY 2007-08 and FY 2008-09 to DHHS for additional operating cost subsidies for an estimated 1,000 independent- and supportive-living apartments for individuals with MH/DD/SA disabilities.

- Directs DHHS to maximize the number of subsidies that it can pay for with these funds by first giving priority to NCHFA-financed apartments, giving second priority to other publicly subsidized apartments, and finally to market-rate apartments. The apartments shall be made affordable to individuals with incomes at or below the SSI level. Up to $250,000 can be used for administration of the subsidies.

- **$10,000,000** FY 2007-08 and FY 2008-09 to the North Carolina Housing Trust Fund of the North Carolina Housing Finance Agency (NCHFA) to finance independent- and supportive-living apartments for individuals with MH/DD/SA disabilities. These funds can be used to continue the current Housing 400 Initiative as currently operated.

- Requires DHHS and NCHFA to work together to plan the most efficient and effective use of state resources in the financing and construction of additional independent- and supportive-living apartments for individuals with MH/DD/SA disabilities.

Part 4. Assistance to Law Enforcement

Services to Persons in Jail:

- Directs LMEs to work with public health departments and County Sheriffs to provide assessments and medications for suicidal, hallucinating or delusional inmates in county jails.

- Directs that the LMEs, county Public Health Departments, and County Sheriffs to work together to develop standardized mental health screening tools, protocols, and training related to persons in jails.

- **$1,000,000** for FY 2007-08 and FY 2008-09 for LMEs to provide the assistance described above.

- **$900,000** for FY 2007-08 and **$1,800,000** for FY 2008-09 from the General Fund to DHHS for 15 additional jail diversion programs, expanding jail diversion to all counties.

Crisis Intervention Teams:

- **$100,000** for FY 2007-08 and FY 2008-09 from the General Fund to DHHS for technical assistance and training of Crisis Intervention Teams.

Post-Conviction Substance Abuse Treatment Programs:

- **$4,080,000** for FY 2007-08 and **$8,160,000** for FY 2008-09 from the General Fund to DHHS for 68 additional care managers per year for the Treatment Accountability for Safer Communities (TASC) program to cover all known substance abuse offenders eligible for the program.
- **$1,412,048** for FY 2007-08 and **$1,167,647** for FY 2008-09 from the General Fund for to the Department of Correction to establish a community-based, residential substance abuse treatment facility for female offenders on probation and female DWI offenders paroled to treatment.

Part 5. Restructure the MH/DD/SA Trust Fund

- Repeals language in G.S. 143C-9-2 that allows Trust Fund money to be used to construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.
- Requires funds remaining in the Trust fund that are not obligated as of February 1, 2007, to only be obligated to provide community based programs.

on non-UCR spending. The data shall be reported by service and by disability, and shall include information regarding any services to Medicaid eligible consumers that are being augmented with State funds. DMH and the LMEs shall develop a method of reporting on services delivered with non-UCR funding that allows DMH to measure outcomes achieved with the use of the funds and also allows more funding to be used on a non-UCR basis.

- **$1,700,000** for FY 2007-08 and FY 2008-09 from the General Fund to DHHS to be used by the LMEs to pay for the cost of the additional reporting requirements.

Effective Date: This bill would become effective July 1, 2007.

A copy of the proposed legislation begins on the next page

LMEs may work together to identify regional needs and may also issue combined requests for proposals to create regional substance abuse treatment programs. LMEs shall distribute funds appropriated under this section no later than six months after the funds are distributed to LMEs by DHHS, and in no event later than June 30, 2008.

SECTION 1.2. There is appropriated from the General Fund to the North Carolina Area Health Education Centers (AHEC), the sum of five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year and the sum of five hundred thousand dollars ($500,000)for the 2008-2009 fiscal year. AHEC shall use the funds to provide technical assistance to LMEs in the identification of substance abuse treatment program needs in the LMEs' catchment areas, the development of requests for proposals, and oversight and accountability for the implementation of substance abuse treatment programs. AHEC shall make recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by February 1, 2009, and October 1, 2010, regarding whether there is a need for additional funds for substance abuse start-up and services.

SUBSTANCE ABUSE TREATMENT SERVICES AND PREVENTION.

SECTION 1.3. G.S. 122C-147.1 reads as rewritten:

"**§ 122C-147.1. Appropriations and allocations.**

(a) Except as provided in subsection (b) of this section, funds for services delivered to mentally ill and developmentally disabled clients shall be appropriated by the General Assembly in broad age/disability categories. Funds for services delivered to substance abuse clients shall be appropriated by the General Assembly in a broad disability category. The Secretary shall allocate and account for funds in broad disability or age/disability categories so that the ~~area authority~~ LME may, with flexibility, earn funds in response to local needs that are identified within the payment policy developed in accordance with G.S. 122C-143.1(b).

(b) When the General Assembly determines that it is necessary to appropriate funds for a more specific purpose than the broad disability or age/disability category, the Secretary shall determine whether expenditure accounting, special reporting within earning from a broad fund, the Memorandum of Agreement, or some other mechanism allows the best accounting for the funds.

(c) Funds that have been appropriated by the General Assembly for a more specific purpose than specified in subsection (a) of this section shall be converted to a broad disability or age/disability category at the beginning of the second biennium following the appropriation, unless otherwise acted upon by the General Assembly.

(d) The Secretary shall allocate funds to ~~area programs:~~LMEs as follows:

(1) To be earned in a purchase of service basis, at negotiated reimbursement rates, for services that are included in the payment policy and delivered to mentally ~~ill,~~ ill and developmentally ~~disabled, and substance abuse~~ disabled clients and for services that are included in the payment policy to other ~~recipients; or~~ recipients.

SECTION 2.1 There is appropriated from the General Fund to the Department of Health and Human Services (DHHS) the sum of five million two hundred fifty thousand dollars ($5,250,000) for the 2007-2008 fiscal year and the sum of five million two hundred fifty thousand dollars ($5,250,000) for the 2008-2009 fiscal year. The funds shall be used to pay for operating cost subsidies for approximately one thousand (1,000) independent- and supportive-living apartments for individuals with mental health, developmental, or substance abuse disabilities. DHHS shall maximize the number of subsidies that can be paid for with these funds by giving first priority to North Carolina Housing Finance Agency-financed apartments, giving second priority to other publicly subsidized apartments, and third priority to market-rate apartments. Up to two hundred fifty thousand dollars ($250,000) may be used for administration of the subsidies.

SECTION 2.2. There is appropriated from the General Fund to the North Carolina Housing Trust Fund the sum of ten million dollars ($10,000,000) for the 2007-2008 fiscal year and the sum of ten million dollars ($10,000,000) for the 2008-2009 fiscal year. The funds shall be used to finance independent- and supportive-living apartments for individuals with mental health, developmental, or substance abuse disabilities. The funds shall be used to continue and expand the Housing 400 Initiative created in 2006.

SECTION 2.3. The independent and supportive living apartments for persons with disabilities constructed from funds appropriated in this act for that purpose shall be affordable to persons with incomes at or below the Supplemental Security Income (SSI) level.

SECTION 2.4. The Department of Health and Human Services and the North Carolina Housing Finance Agency shall work together to develop a plan for the most efficient and effective use of State resources in the financing and construction of additional independent- and supportive-living apartments for individuals mental health, developmental, or substance abuse disabilities. This plan shall address gaps in the housing continuum identified by the study that DHHS will conduct during SFY 2006-07 and SFY 2007-08. DHHS and NCHFA shall report this plan and also the progress of the Housing 400 Initiative to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by March 1, 2008.

SUPPORT PROPOSALS REGARDING MENTALLY ILL IN ADULT CARE HOMES.

SECTION 2.5. The Department of Health and Human Services shall develop a "Transitional Residential Treatment Program" service definition to provide 24-hour residential treatment and rehabilitation for adults who have a pattern of difficult behaviors related to mental illness and which exceed the capabilities of traditional community residential settings. DHHS shall submit the new service definition to the Centers for Medicare and Medicaid for approval no later than 90 days after the enactment of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium.

If all ~~area authorities and county programs~~ LMEs in a crisis region determine that a facility-based crisis center is needed and sustainable on a long-term basis, the crisis region shall first attempt to secure those services through a community hospital or other community facility. If all the ~~area authorities and county programs~~LMEs in the crisis region determine the region's crisis needs are being met, the ~~area authorities and county programs~~LMEs may use the funds to meet local crisis service needs."

SECTION 3.3. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of fifteen million dollars ($15,000,000) for the 2007-2008 fiscal year and the sum of twenty million dollars ($20,000,000) for the 2008-2009 fiscal year to be used to provide crisis services.

Funds appropriated in this Section shall be allocated to local management entities (LMEs) such that each LME receives a percentage of the total allocation that is equal to that LME's percentage of the State's total population that is below the federal poverty level. DHHS shall distribute the funds no later than 30 days after the enactment of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium. LMEs shall work with sheriffs and county public health agencies to serve individuals who are incarcerated or being held in county jails and who are in need of crisis services.

SECTION 3.4. G.S. 122C-147.1, as amended by Section 1.3 of this act reads as rewritten:

"**§ 122C-147.1. Appropriations and allocations.**

(a) Except as provided in subsection (b) of this section, funds for services delivered to mentally ill and developmentally disabled clients shall be appropriated by the General Assembly in broad age/disability categories. Funds for services delivered to substance abuse clients shall be appropriated by the General Assembly in a broad disability category. The Secretary shall allocate and account for funds in broad disability or age/disability categories so that the LME may, with flexibility, earn funds in response to local needs that are identified within the payment policy developed in accordance with G.S. 122C-143.1(b).

(b) When the General Assembly determines that it is necessary to appropriate funds for a more specific purpose than the broad disability or age/disability category, the Secretary shall determine whether expenditure accounting, special reporting within earning from a broad fund, the Memorandum of Agreement, or some other mechanism allows the best accounting for the funds.

(b1) Notwithstanding subsection (b) of this section, funds appropriated by the General Assembly for crisis services shall not be allocated in broad disability or age/disability categories.

(c) Funds that have been appropriated by the General Assembly for a more specific purpose than specified in subsection (a) of this section shall be converted to a broad disability or age/disability category at the beginning of the second biennium following the appropriation, unless otherwise acted upon by the General Assembly. This subsection shall not apply to funds appropriated by the General Assembly for crisis services.

(d) The Secretary shall allocate funds to LMEs as follows:

hospital for inpatient beds for involuntary commitments. An LME that participates in this pilot program during the 2007-2008 fiscal year shall be eligible to participate in the program during the 2008-2009 fiscal year if the LME can document a reduction in the involuntary commitment admissions from that LME's catchment area to the State psychiatric hospital that serves that catchment area during the 2007-2008 fiscal year.

The budgets for the State psychiatric hospitals shall not be reduced during the 2007-2008 fiscal year as a result of this pilot. However, those budgets shall be adjusted in following years to reflect the previous year's use by the LMEs participating in the pilot program.

PART IV. ASSISTANCE TO LAW ENFORCEMENT

SERVICES TO PERSONS IN JAIL

SECTION 4.1. Local Management Entities shall work with County Public Health departments and County Sheriffs to provide medical assessments and medication, if appropriate, for inmates housed in county jails who are suicidal, hallucinating or delusional. LMEs shall also examine ways to provide additional treatment to persons who are determined to be psychotic, severely depressed, suicidal, or who have substance abuse disorders. LMEs, County Public Health departments and County Sheriffs shall work together to develop all of the following:

(1) A standardized evidence-based screening instrument to be used when offenders are booked.

(2) A designated LME employee who is responsible for screening the daily jail booking log for known mental health consumers.

(3) Protocols for effective communication between the LME and the jail staff including collaborative development of medication management protocols between the jail staff and the mental health providers.

(4) Training to help detention officers recognize signals of mental illness.

There is appropriated from the General Fund to the Department of Health and Human Services (DHHS), Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH), the sum of one million dollars ($1,000,000) for the 2007-2008 fiscal year and the sum of one million ($1,000,000) for the 2008-2009 fiscal year. Funds appropriated in this Section shall be allocated to local management entities (LMEs) such that each LME receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level. LMEs shall use the funds to provide the assistance required under this Section.

SECTION 4.2. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services the sum of nine hundred thousand dollars ($900,000) for the 2007-2008 fiscal year and the sum of one million eight hundred thousand dollars ($1,800,000) for the 2008-2009 fiscal year. The funds shall be used by LMEs to expand post-arrest jail diversion programs. The funds would expand the program by fifteen (15) programs each year.

Management. Moneys in the Trust Fund shall be held in trust and used solely to increase community-based services that meet the mental health, developmental disabilities, and substance abuse services needs of the State. The Trust Fund shall be used to supplement and not to supplant or replace existing State and local funding available to meet the mental health, developmental disabilities, and substance abuse services needs of the State.

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this section and in accordance with limitations and directions enacted by the General Assembly.

(b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs shall be used only to:

(1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.

(2) Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.

(3) ~~Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand~~ Expand and enhance mental health, developmental disabilities, and substance abuse treatment and prevention services ~~in these program areas~~ in the community to remove waiting lists and provide appropriate and safe services for clients.

(4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.

~~(5) Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.~~

(c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(1), (b)(2) and (b)(3) of this section.

($7,000,000) for the 2007-2008 fiscal year and the sum of seven million dollars ($7,000,000) for the 2008-2009 fiscal year. The funds shall be used to for start-up and ongoing support of Supported Employment Long-Term Support services.

SECTION 7.4. Beginning July 1, 2007, Developmental Therapies services shall only be available to individuals who were receiving that service on June 30, 2007. Developmental Therapy funds that are not utilized shall be made available to LMEs to use for CAP MR/DD slots or for other Supported Employment Long-Term Support services for the developmentally disabled. An LME that receives all its State appropriated allocations through a grant basis shall also receive its Developmental Therapies allocation on the same basis.

The Department of Health and Human Services shall develop a new, Medicaid reimbursable service for submission to the Center for Medicare and Medicaid Services to replace Developmental Therapies no later than November 1, 2007.

SECTION 7.5. The Department of Health and Human Services shall develop and apply to the Centers for Medicare and Medicaid Services for additional home and community-based waivers for persons with developmental disabilities. In conjunction with the existing CAP MR/DD waiver, the new waivers will create a tiered system of services.

COMMUNITY SUPPORT SERVICES/ TIERED RATE STRUCTURE

SECTION 7.6. The Department of Health and Human Services shall establish at least three rate tiers for the service of Community Supports. The rates shall be based upon the level of qualifications of the individuals delivering the service and shall include a professional-level case management tier, a professional-level skill building tier, and a paraprofessional-level tier.

PART VIII. LME ADMINISTRATIVE FUNDING

SECTION 8.1. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the sum of nineteen million two hundred thousand dollars ($19,200,000) for the 2007-2008 fiscal year and the sum of nineteen million two hundred thousand dollars ($19,200,000) for the 2008-2009 fiscal year to be used to fully fund the LME administrative cost model developed by the Division pursuant to S.L. 2006-66, Sec. 10.32.(b).

Based upon information provided to the General Assembly by the Division, it is the understanding of the General Assembly that the funds appropriated under this Section in addition to the funds contained in the Governor's Base Budget proposal are sufficient to fully fund the State's contribution for LME systems administration as determined by the LME administrative cost model developed under S.L. 2006-66, Sec. 10.32.(b). Notwithstanding any provision in Chapter 143C of the General Statutes or any other provision of law, the Secretary shall not transfer funds from any other fund code or program category within DHHS to fund LME system administration.

LEGISLATIVE PROPOSAL #2

UNIFORM SLIDING FEES

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

U D

BILL DRAFT 2007-RCfz-5 [v.3] (02/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/2/2007 1:47:55 PM

Short Title: Uniform Sliding Fees - MH/DD/SA Services. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A UNIFORM SLIDING FEE SCHEDULE FOR MH/DD/SA SERVICES AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-146 reads as rewritten:

"**§ 122C-146. Fee for service.**

(a) The ~~area authority~~LME and its contractual provider agencies shall ~~prepare fee schedules~~ implement the standardized fee schedule and sliding fee schedule adopted by the Secretary ~~for services and~~ under G.S. 122C-112.1(a). The LME and its contractual provider agencies shall also make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party ~~payment, except that individuals~~ However, no individual may be refused services because of an inability to pay.

(b) Individuals may not be charged for free services, as required in "The Amendments to the Education of the Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. ~~However, no individual may be refused services because of an inability to pay.~~

(c) All funds collected from fees from ~~area authority~~LME operated services shall be used for the fiscal operation or capital improvements of the ~~area authority's~~LME's

LEGISLATIVE PROPOSAL #3

EXTEND PILOT/CLARIFY LME FUNCTIONS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

U **D**

BILL DRAFT 2007-RCz-6 [v.6] (02/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/7/2007 3:51:58 PM

Short Title: Extend Pilot/Clarify LME Functions/LME Admin. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE FIRST COMMITMENT PILOT PROGRAM, TO FURTHER CLARIFY LME CORE FUNCTIONS AND TO ALLOW ADDITIONAL TIME FOR AN LME TO MERGE WHEN IT HAS GONE BELOW THE 200,000 POPULATION OR SIX COUNTY THRESHOLD DUE TO A CHANGE IN COUNTY MEMBERSHIP AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a). S.L. 2003-178, as amended by S.L. 2006-66, Section 10.27, reads as rewritten:

"**SECTION 1.** The Secretary of Health and Human Services may, upon request of ~~a phase one local management entity~~a LME, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

(1) The Secretary has received a request from ~~a phase one local management entity~~an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the ~~local management entity~~LME shall ~~be submitted as part of the entity's local business plan and shall~~ specifically describe:

a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.

(8) The ~~local management entity~~LME shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

SECTION 2. This act becomes effective July 1, 2003, and expires October 1, ~~2007.~~ 2010."

SECTION 1.(b). The Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall review the report submitted by the Secretary under S.L. 2003-178, as amended by S.L. 2006-66, Section 10.27 and Section 1.(b) of this act. The LOC shall make recommendations to the 2011 General Assembly regarding whether to further extend the pilot or make it permanent and state wide.

SECTION 2. G.S. 122C-115.4 reads as rewritten

"§ 122C-115.4. Functions of local management entities.

(a) Local management entities are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. An LME shall plan, develop, implement, and monitor services within a specified geographic area to ensure expected outcomes for consumers within available resources.

(b) The primary functions of an LME are designated in this subsection and shall not be conducted by any other entity unless an LME voluntarily enters into a contract with that entity under subsection (c) of this section. The primary functions include all of the following:

(1) Access for all citizens to the core services described in G.S. 122C-2. In particular, this shall include the implementation of a 24-hour a day, seven-day a week screening, triage, and referral process and a uniform portal of entry into care.

(2) Provider endorsement, monitoring, technical assistance, capacity development, and quality control. An LME may remove a provider's endorsement if a provider fails to meet defined quality criteria or fails to provide required data to the LME.

(3) Utilization management, utilization review, and determination of the appropriate level and intensity of services including the review and approval of the person centered plans for consumers who receive State-funded services. Concurrent review of person centered plans for all consumers in the LME's catchment area who receive Medicaid funded services.

(4) Authorization of the utilization of State psychiatric hospitals and other State facilities. Authorization of eligibility determination requests for recipients under a CAP-MR/DD waiver.

(5) Care coordination and quality management. This function includes the direct monitoring of the effectiveness of person centered plans. It also includes the initiation of and participation in the development of required modifications to the plans for high risk and high cost consumers in order to achieve better client outcomes or equivalent

(2) The definition of a high cost consumer. Until such time as the Commission adopts a rule under this subdivision, a high cost consumer means a person whose treatment plan is expected to incur costs in the top twenty percent (20%) of expenditures for all consumers in a disability group.

(3) The notice and procedural requirements for removing one or more LME functions under subsection (d) of this section."

SECTION 3. G.S. 122C-115(a1) reads as rewritten:

"(a1) Effective July 1, 2007, ~~The~~ the Department of Health and Human Services shall reduce by ten percent (10%) annually the administrative funding for ~~area authorities and county programs~~ LMEs that do not comply with the catchment area requirements of ~~this section.~~subsection (a) of this section. However, an LME that does not comply with the catchment area requirements because of a change in county membership shall have twelve months from the effective date of the change to comply with subsection (a) of this section."

SECTION 4. This act is effective when it becomes law.